

THE STATE OF OHIO
COUNTY OF CUYAHOGA

FILED

IN THE COURT OF COMMON PLEAS
GENERAL DIVISION

2013 OCT -4 P 4: 25

IN RE: ELECTRONIC FILING OF FIRST AMENDED TEMPORARY
COURT DOCUMENTS ADMINISTRATIVE ORDER
(CIVIL CASES) CUYAHOGA COUNTY

Judge: NANCY A FUERST

SD 13 077231

I. Application of the First Amended Temporary Administrative Order

- A. Pursuant to the Temporary Administrative Order, commencing on or about May 1, 2013, the Cuyahoga County Common Pleas Court ("the Court") and the Cuyahoga County Clerk of Courts ("the Clerk") initiated a phased implementation of the new electronic filing system ("the e-Filing System"). The phased implementation began with a pilot project that included select foreclosure matters.

Consistent with Ohio Sup.R. 27, Ohio Civ.R. 5 (E), Ohio Civ.R. 11, the Ohio Supreme Court Advisory Committee on Technology and the Court's draft Standards for Electronic Filing Processes, the Court and the Clerk, hereby adopt the following First Amended Temporary Administrative Order governing electronic filing ("e-Filing").

- B. Commencing November 12, 2013, the following foreclosure matters shall be e-Filed in accordance with this order:

M a n d a t o r y e - F i l i n g	
Classification	Filing Code (s)
Foreclosure	1460, 1465, 1466, 1467, 1470, 1480, 1481

- C. Commencing October 14, 2013, the following types of civil cases may be e-Filed in accordance with this Order:

Classification	Filing Code (s)
Professional Torts	1311, 1315, 1316, 1317, 1312, 1313
Product Liability	1330
Other Torts	1310, 1314, 1350
Workers Compensation	1550, 1531
Commercial Docket	1386, 1387
Administrative Appeals	1540, 1551
Other Civil	1382, 1384, 1388, 1391, 1501, 1502, 1503

E-File type cases listed in paragraph C will become mandatory e-File cases at a date to be determined.

- D. The following types of civil cases shall not be e-Filed until further Order of Court:

Classification	Filing Code (s)
Cognovit	1390
Foreign Judgment	1490
Stalking Civil Protection Order	1491
Replevin	1500
Certificate for Qualification of Employment (CQE)	1503

- E. If necessary, the Court may issue additional administrative orders or adopt local rules that supplement this Order and designate various other case types as mandatory e-File case types. Case types so designated shall be filed electronically after the effective date of such supplemental order or local rule.

II. Definition of Terms

The following terms in this Order shall be defined as follows:

- A. **e-File Case Type:** A case type that has been designated by the Administrative Order or Local Rules as being one that may be filed electronically.
- B. **Clerk:** The Clerk of Courts for the Cuyahoga County Common Pleas Court, General Division, as defined by the Ohio Revised Code and the Cuyahoga County Charter.
- C. **Clerk Review:** A review of electronically filed documents by the Clerk of Courts in accordance with court rules, policies, procedures, and practice. The Clerk shall review the data and documents electronically submitted to ensure compliance with court rules, policies, procedures and practices before officially receiving the documents for filing and creating a docket entry.
- D. **Case Management System ("CMS"):** A system that manages the receipt, processing, storage and retrieval of data and documents associated with a case and performs actions on the data or documents.
- E. **Confidentiality or Confidential:** All documents submitted for e-Filing shall be confidential until accepted by the Clerk.
- F. **Court Electronic Record:** Any document received in electronic form, recorded in the case management system and stored in the Court's document management system. This will include notices and orders created by the court as well as pleadings, other documents and attachments created by parties. It will not include physical exhibits brought into the courtroom for the court's or jury's edification, which cannot be converted to an electronic form. These documents will be considered to be and maintained as court records as set forth in the Ohio Rules of Superintendence.

- G. **Court Initiated Filings:** Official court documents entered into the docket or register of actions, such as notices or orders. The term "court initiated filings" is a catch all to indicate that documents will be submitted as part of the electronic court record, but could be submitted using exactly the same process as external filings if the court so desires.
- H. **Document:** A filing made with a court or by the court in either electronic format or paper form becoming the court's official record.
- I. **Electronic Filing (e-Filing):** The electronic transmission, acceptance, and processing of a filing. A filing consists of data, one or more documents, and/or images. This definition of electronic filing does not apply to facsimile or e-mail.
- J. **Electronic Service (e-Service):** The electronic notice of a filing document to all other electronically-registered case participants via the e-Filing System.
- K. **Electronic Signature:** An electronic sound, symbol or process that is attached to, or logically associated with, an electronic record and that is executed or adopted by a party with the intent to sign the electronic record.
- L. **Filer/Filing Party:** Any person, agency or entity that is filing an action or a document with the Cuyahoga County Common Pleas Court, General Division. "Filer" and "filing party" shall include party and non-party filers.
- M. **Original Document:** A document that becomes part of the court record.
- N. **Registered User:** A person who has read and agreed to the terms of the Electronic Filing System's User Agreement, has provided his/her credentials through the e-Filing System proving his/her identity, and has been provided with a user name and password through the e-Filing System.

III. Electronic Filing of Pleadings and Other Documents

- A. As set forth in Section I, paragraphs B and C, all pleadings, motions, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, orders, or other documents submitted in designated e-File case types will be e-Filed through the Court's authorized e-Filing System. For those cases pending prior to the commencement date of e-Filing, all subsequently filed documents may be e-Filed when the case type is designated as an e-File case type.
- B. For all cases not yet identified as mandatory e-File cases, the Clerk shall continue to accept for filing any document in paper form until further order of the Court. For all cases, whether designated as e-File or mandatory e-File cases, the Clerk shall continue to maintain a paper file that will contain all court records filed in a case until further order of the Court.

IV. Personal and Private Information in Electronically Filed Court Documents

- A. Personal and private information includes, but is not limited to:
 - (1) Social Security Numbers;
 - (2) Financial account numbers;
 - (3) Names of minor children;

- (4) Information protected by law from public disclosure;
 - (5) Other personal identification numbers such as driver's license numbers.
- B. Pursuant to the Rules of Superintendence, filing parties and/or legal counsel shall not include personal and private information in any document filed with the Court unless such inclusion is necessary and relevant to the case. This requirement extends to and includes exhibits or addenda attached to filings such as preliminary and financial reports which itemize state liens that use Social Security Numbers as case numbers or medical records.
- C. If personal and private information is necessary and must be included in a document, the filing party shall redact the personal data and identifiers from the pleading.
 - (1) Pursuant to Sup. R. 45(D)(3), the responsibility for redacting personal identifiers rests solely with counsel and their parties. The Court and the Clerk will not review each document for compliance with this rule.
 - (2) Pursuant to Sup. R. 45(D)(2), when personal identifiers are omitted from a case document submitted to a Court or filed with the Clerk, the party shall submit or file that information on a separate form provided by the Clerk.

V. Electronic Filing and Service of Orders and Other Papers

For designated e-File case types, the Court shall issue, journalize, and serve notices, orders, and other documents electronically, subject to the provisions of this Order and Court Rules.

VI. Designation of Electronic Filing Cases

- A. Upon an order designating any case type as an e-File case, parties to such e-File case, who are represented by counsel, shall promptly take steps to allow their counsel to file, serve, receive, review, and retrieve copies of the pleadings, orders and other documents filed in the case(s) electronically. Parties filing electronically or receiving electronic service of any documents filed must become participants in the Court's e-Filing System.
- B. For participants in the Court's e-Filing System, parties shall electronically file a document by registering to use the Court's authorized e-Filing System. A party can use the Clerk's Public Access Terminals to register to use the Court's authorized e-Filing System and to file documents electronically.

VII. Confidential and Unique Electronic Identifier

- A. The Court's e-Filing System shall assign to a party's designated representative(s) a confidential and unique electronic credential that must be used to file, receive, review, and retrieve electronically filed pleadings, orders, and other documents filed in the e-File case.

- B. Each person who is a registered user of the e-Filing System shall be responsible for the security, use and confidentiality of his/her unique user name and password.
- C. All documents filed electronically will be deemed to be made by or with the authorization of the party who is assigned to the unique credential, unless the party demonstrates to the Court otherwise, by clear and convincing evidence.

VIII. Pro Se Litigants

Pro Se litigants shall be accommodated in one of the following ways:

- A. All filings by parties appearing pro se may be filed and served conventionally in paper form unless the party chooses to file and serve electronically, in which case the party may do so through the Court's authorized e-Filing System. The Clerk shall accept the paper document for filing, scan the document within twenty-four hours of the filing and retain the original for placement in the case file; or
- B. The Clerk shall provide secured Public Access Terminals from which pro se or other litigants will be permitted to register to use the Court's authorized e-Filing System and electronically file documents.

IX. Official Court Record

For case types designated for e-Filing, parties should file all pleadings, motions, briefs, memoranda of law, deposition transcripts, transcripts of proceedings, orders, or other documents electronically through the Court's e-Filing System. For documents that have been electronically filed or documents filed in paper format that have been scanned and uploaded to the e-Filing System, the electronic version constitutes the official court record. Electronically filed papers have the same force and effect as those filed by traditional means.

X. Form of Documents Electronically Filed

- A. **Format of Electronically Filed Documents:** All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in any other format as the Court may require from time to time. A filed document shall not contain links to other documents or references in the Court's case management system, unless the links are incorporated into the filed document. External links are prohibited.
- B. **Portable Document Format:** All electronically filed documents, pleadings, and papers shall be filed with the Clerk in Portable Document Format (PDF) with the exception of proposed orders.
- C. **Proposed Orders:** Must be submitted in Microsoft Word [.doc or .docx] format and reference the specific motion to which it applies. The e-Filing System will electronically transmit the proposed order to the assigned Judge or Magistrate.
- D. **Size of Filing:** Submissions shall be limited to twenty megabytes (20MB) in size. No combination of PDF files in one transmission may accumulate to more than 20 megabytes (20MB) in size.

E. Signatures:

- (1) **Attorney/Filing Party Signature:** Documents filed electronically with the Clerk that requires an attorney's or filing party's signature shall be signed with a conformed signature of "/s/ (name)." The correct format for an attorney signature is as follows:

/s/Attorney Name

Attorney Name

Bar Number 1234567

Attorney for (Plaintiff/Defendant) XYZ Corporation

ABC Law Firm

Address

Telephone

Email

Fax

The conformed signature on an electronically filed document is deemed to constitute an original signature on the document for purposes of signature requirements imposed by the Ohio Rules of Superintendence, Rules of Civil Procedure, Rules of Criminal Procedure, Court's Local Rules, and/or any other law.

- (2) **Multiple Signatures:** When a stipulation or other document requires the signature of two or more individuals:
- a) The filing party or attorney shall confirm that the content of the document is acceptable to all persons required to sign the document. The filer will indicate the agreement of other counsel or parties at the appropriate place in the document, usually on the signature line.
 - b) The filing party or attorney then shall file the document electronically, indicating the signatories, e.g., /s/ Jane Doe, /s/ John Smith, etc.
- (3) **Third-Party Signatures:** Documents containing signatures of third parties (i.e., unopposed motions, affidavits, stipulations, etc.) shall be electronically filed only as a hand-signed scanned PDF document.
- (4) **Judge/Judicial Officer Signature:** Electronic documents may be signed by a Judge or judicial officer via a digitized image of his or her signature combined with a digital signature. All orders, decrees, judgments, and other documents signed in this manner shall have the same force and effect as if the Judge had affixed his or her signature to a paper copy of the document and it had been entered on the journal in a conventional manner.

XI. Filing Date and Time of Electronically Filed Documents

- A. Documents may be submitted to the Clerk for e-Filing 24 hours a day, seven days a week. Documents may be deemed filed, however, 24 hours a day, five days a week. Documents electronically submitted for e-Filing shall be deemed filed on the date and time outlined below. All times listed herein refer to Eastern Standard Time or Eastern Daylight Savings Time.

B. The e-Filing System is hereby appointed the agent of the Clerk for purposes of electronic filing, receipt, service and retrieval of electronic documents.

- (1) Upon receipt of an electronic document submitted for filing, the e-Filing System shall issue the e-Filer a confirmation that the submission has been received. The confirmation notice shall include the date and time of receipt and shall serve as proof of receipt of the submission. The confirmation notice shall also inform the e-Filer that, if the document is accepted for filing, the date and time reflected in the confirmation notice shall serve as the date and time of filing, unless the document was submitted for filing after 11:59 p.m. on a Friday or after 11:59 p.m. on a business day before a Court holiday. In that case, the document will be deemed filed on the following Court business day.
- (2) An e-Filer will receive subsequent notification from the Clerk indicating that the submission has been accepted or rejected by the Clerk's office for docketing and filing into the Court's Case Management System.
- (3) If a document submitted for e-Filing has been accepted by the Clerk after Clerk Review, the document will receive an electronic stamp. This stamp will include the date and time that the filer transmitted the document to the e-Filing System (i.e., date and time of receipt outlined in section 1 above). Subject to the exceptions noted in Section 6 below, the date and time reflected on the electronic stamp shall become the filing date and time for that document.
- (4) In the event the Clerk rejects a submitted document following Clerk Review, the document shall not become part of the official Court record and the e-Filer will be required to re-file the document to meet necessary filing requirements.
- (5) If a document is submitted for e-Filing prior to 11:59 p.m. on a Friday or prior to 11:59 pm. on a business day that is not a Court holiday, and that document is then accepted for filing after Clerk Review, the date and time reflected on the electronic stamp on the document (i.e., the date and time of receipt of submission, as outlined in section 1 above), shall be the date and time the document is deemed to have been filed.
- (6) If a document is submitted for e-Filing after 11:59 p.m. on a Friday or after 11:59 p.m. on a business day before a Court holiday, and that document is then accepted for filing after Clerk Review, the document shall be deemed to have been filed on the following business day, even though the electronic stamp on the document will bear the date and time of submission of said document.

This does not in any way alter the provision in Civ.R. 6 allowing that filing deadlines that fall on a Saturday, a Sunday, or a legal holiday run until the end of the following day that is not a Saturday, a Sunday, or a legal holiday.

XII. System or User Filing Errors

A. User Filing Errors

- (1) A filer cannot make changes to any document once it has been submitted and accepted for filing.
- (2) A document that is incorrectly submitted for e-Filing (e.g., as a result of entering a wrong case number, selecting an incorrect document type, attaching an incorrect PDF file to a submission for e-Filing, or where the electronic file is corrupt or unreadable), may be deleted from the e-Filing System as long as the document has not been accepted for filing by the Clerk's office.
- (3) In the event of an incorrect case number or an electronic file that is corrupt or unreadable, the Clerk will reject the submission and notify the filer of the error and the need to re-submit. However, where the error consists of something other than a wrong case number or corrupt file, the filer should, as soon as possible after the error is discovered, contact the Clerk's office and provide the case number and document number for which a correction is being requested. The Clerk may then delete the document from the e-Filing System. The Clerk shall immediately notify the filer of the error and the need to re-submit, if appropriate. The Clerk will not delete the relevant docket text, but annotate the docket with a Notice of Correction to show the deletion, the reason for deletion, and that the filer has been notified. If appropriate, the Court will make an entry indicating that the document was filed in error.
- (4) Once a document has been accepted for e-Filing by the Clerk, only a Judge can strike the document in the event it has been filed in error.

B. Technical Failures

- (1) The Clerk shall deem the e-Filing System to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 10:00 a.m. that day. The Clerk will post known system outages on the Clerk's web site, if possible.
- (2) Problems on the filer's end, such as phone line problems, problems with the filer's Internet Service Provider (ISP), or hardware or software problems, may also prevent timely filing. A filer who cannot file a document electronically because of a problem on the filer's end must file the document, in PDF format, through the Public Access Computer stations in the Clerk's office.
- (3) If a document submitted electronically for filing is not filed with the Court because of an error in the transmission of the document to the e-Filing System, whether that error originates with the e-Filing System or at the filer's end, the Court may, upon satisfactory proof, enter an order permitting the document to be deemed filed as of the date it was electronically submitted. The Court may specify by local rule, or otherwise, a procedure for seeking relief under this provision. Counsel and parties should not assume that

such relief is available on jurisdictional time limits (such as statutes of limitation or deadlines for appeal).

XIII. Electronic Service of Filings and Other Documents

- A. Registered users of the Court's e-Filing System must consent to receiving electronic service of papers in lieu of other methods of service, unless otherwise provided by law or as ordered by the assigned Judge in the case. Upon electronic filing of a document, the e-Filing System will generate a "Notice of Electronic Filing" which will be automatically served electronically by the System on all parties who are registered case participants. This notification will advise the parties of the filing of the document and the parties will be required to access the e-Filing System to read the actual document filed.
- B. All parties who are registered users of the Court's authorized e-Filing System shall electronically serve upon all other registered users of the e-Filing System through the Court's authorized e-Filing System. Parties, or their designated counsel, shall receive all documents electronically filed and electronically served upon them via access to the Court's e-Filing System.
 - (1) **Service of Original Complaint or Third-Party Complaint.**

When submitting any Complaint or Third-Party Complaint for electronic filing, the filing party shall also submit instructions for service as required by the Ohio Rules of Civil Procedure. The Clerk shall issue a summons and process the method of service requested in accordance with the applicable Rules of Civil Procedure. E-Service shall not replace the methods of service of pleadings prescribed in the applicable Rules of Civil Procedure.
 - (2) **Effect of Electronic Service of Subsequent Filings.**

The electronic service of a subsequent pleading, filing or other document in e-File cases shall be considered as valid and effective service on all registered parties and shall have the same legal effect as an original paper document served under current rules.

Non-registered parties and pro se parties who have not subscribed to the Court's authorized e-Filing System shall be served traditionally, in accordance with the applicable Rules of Civil Procedures.
 - (3) **Service of Filings Subsequent to the Complaint.**
 - a) When a document (other than and subsequent to a Complaint or Third-Party Complaint) is filed electronically in accordance with these procedures, the e-Filing System will generate a "Notice of Electronic Filing" to the filing party and to any other party who is a registered user of the e-Filing System. If the recipient is a registered user, a courtesy "Notice of Electronic Filing" e-mail will be delivered to the user's e-Filing-designated e-mail account and a similar notification will appear on the user's notifications page in the e-Filing System. This electronic notice through the e-Filing

System shall constitute service of that document upon that party in accordance with the applicable rules of the Court.

- b) It is the responsibility of the registered user to check his/her notifications page in the e-Filing System for notices pertaining to recent filings, and to not rely solely on the courtesy e-mails delivered to the user's designated e-Filing e-mail account. It is also the responsibility of the registered user to ensure the courtesy e-mails with notices of electronic filings are not blocked by the spam filter of his/her designated e-Filing e-mail account.
- c) A Certificate of Service is still required when a party files a document electronically. The Certificate of Service shall state the manner, including by e-Service if applicable, in which service or notice was accomplished on each party entitled to service. The Certificate of Service shall set forth the date on which the attached document is being submitted for e-Filing, and shall designate that date as the date of service of the document.
- d) A party who is not a registered user of the e-Filing System is entitled to a paper copy of an electronically filed document. The filing party shall serve the non-registered party with the document in accordance with the applicable Rules of Civil Procedure or as ordered by the assigned Judge in the case.
- e) It shall be the responsibility of the filing party to serve all proposed entries and orders submitted to the Court for signature on all registered parties and all non-registered parties and must be served by traditional service methods per Ohio Rules of Court.
- f) Pursuant to the Ohio Rules of Civil Procedure, specifically Civ.R. 5(B) and Civ.R. 6(D), parties served electronically shall no longer be entitled to the three-day extension of time to respond that they would otherwise be entitled to if they were served by mail or by a commercial carrier service. This limitation to the application of "the three-day rule" applies only to documents served subsequent to the Complaint or Third-Party Complaint; it does not apply to responses to service of summons under Civ.R. 4 through Civ.R. 4.6.
- g) A filer who submits a document to the Clerk's office for scanning and uploading to the e-Filing System shall serve paper copies on all non-registered parties in the case. Such a filer shall serve all registered parties on that case electronically via the e-Filing System.

(4) Service on Parties; Time to Respond or Act.

- a) E-Service of an e-Filed document shall be deemed complete when a registered user receives the notice on his/her E-Service notifications page through the e-Filing System.
- b) Service of a paper copy of an electronically filed document on a non-registered user shall be deemed complete on the date set forth on the Certificate of Service attached to said

document. Parties traditionally served with documents that have been electronically filed are entitled to respond per the Ohio Rules of Court as if the paper document had been traditionally filed with the Court.

- c) The time to respond shall be in accordance with the Ohio Rules of Civil Procedure, unless otherwise ordered by the assigned Judge. For the purpose of computing time to respond to documents received electronically by the Court, any document filed after 4:30 p.m. Eastern Standard Time or Eastern Daylight Time, shall be deemed filed on the next Court business day that is not a Saturday, Sunday, or legal holiday.

(5) Failure of Electronic Service.

If electronic service on a party does not occur, the party to be served may be entitled to an order extending the date for any response or the period within which any right, duty or act must be performed.

XIV. Conventional Filing of Documents

The following types of documents must be filed conventionally, unless expressly required to be filed electronically by the Court:

- A. Documents Filed Under Seal:** A motion to file documents under seal may be filed and served electronically. However, the documents to be filed under seal shall be filed in paper form unless otherwise directed by the Court.
- B. Documents to be presented to a Court in Camera:** Any documents submitted for in camera inspection shall be submitted to the assigned Judge outside the e-Filing System
- C. Exhibits:** Exhibits or other items that cannot be captured or stored in an electronic format may be filed and served conventionally.
- D. Courtesy Copies:** Paper courtesy copies of e-Filed documents shall not be delivered to the Court unless otherwise directed by the individual Judge.
- E. Record of Proceedings in Administrative Appeal Case Types:** Currently, the records of proceedings filed in administrative appeal case types shall be filed in conventional paper format.
- F.** Any other documents as directed by the Court.

XV. Collection of Filing Deposit and Fees

- A.** Any document requiring payment of a filing deposit or a fee to the Clerk of Courts in order to achieve valid filing status shall be filed electronically in the same manner as any other e-Filed document.
- B.** The authorized electronic filing System will establish a means to accept payment of deposits and fees electronically, including the process for filing an affidavit of indigency or affidavit of poverty.

XVI. Public Access Terminals

The public can view electronically filed documents on Public Access Terminals located in the Clerk's Office. Users shall be charged for printed copies of documents at rates established by the Clerk.

XVII. Help Desk

The Clerk shall establish a Help Desk in the Clerk's Office for users of the Electronic Filing System and it shall be maintained until further Order of Court. The Help Desk shall provide telephone support and any other support set forth in these Rules. The Help Desk shall have dedicated staff available to provide support from 8:30 a.m. to 4:30 p.m. each business day that the Clerk and the Court are open. The Help Desk shall provide System users the following:

- A. Answer any questions from the public concerning the e-Filing System;
- B. Assist the public with establishing new accounts and registration;
- C. Assist System users with the resetting of passwords;
- D. Coordinate and provide end user training;
- E. Facilitate the resolution of any issues associated with the e-Filing System.

XVIII. Effective Date of First Amended Temporary Administrative Order

This First Amended Temporary Administrative Order shall become effective immediately and shall remain in full force and effect until further Order of Court.

SO ORDERED.




Nancy A. Fuerst
Administrative Judge
Cuyahoga County Common Pleas Court, General Division

10/4/13
Date

RECEIVED FOR FILING

OCT 04 2013

CUYAHOGA COUNTY
CLERK OF COURTS
By  Deputy